

MR. SLACK: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The Chair sustains the point of order. In each case the paragraph will be stricken.

§ 18. Justice

Training of United States Attorneys

§ 18.1 An appropriation for the training of United States attorneys and other officials was held not authorized by a law empowering the Attorney General to exercise supervision over United States attorneys.

On Apr. 3, 1936,⁽⁷⁾ the Committee of the Whole was considering H.R. 12098, an appropriation bill for the State, Justice, Commerce, and Labor Departments. During consideration, a point of order was sustained against a paragraph in the bill as indicated below:

Salaries and expenses: For salaries and expenses incident to the special instruction and training of the United States attorneys and United States marshals, their assistants and deputies, and United States commissioners, including personal services, supplies, and equipment in the District of Columbia, traveling expenses, including

7. 80 CONG. REC. 4926, 4927, 74th Cong. 2d Sess.

expenses of attendance at meetings when specifically authorized by the Attorney General, \$35,000.

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Chairman, I make a point of order against the paragraph beginning on page 38, line 17, ending on line 26, embracing the proposed appropriation of \$35,000, because there is no law authorizing it and it is legislation upon an appropriation bill, unauthorized by law.

THE CHAIRMAN:⁽⁸⁾ the Chair will hear the gentleman from South Carolina [Mr. McMILLAN] on the point of order.

MR. [JOHN L.] McMILLAN: Mr. Chairman, this item is carried in the bill, I may say to the Committee, on the authority of law as we find it in section 317 of title V of the Code of Laws of the United States in force January 3, 1935, in which I find this language:

The Attorney General shall exercise general superintendence and direction over the attorneys and marshals in the districts of the United States and Territories as to the manner of discharging their respective duties—

And so forth. We take it that, in view of the language I have just read, the Attorney General would have discretion under this substantive law to provide for these men, marshals and district attorneys, and what not, to be brought to Washington for such a course of instruction or training as they may need. The purpose of this language is to make uniform a policy to apply to district attorneys and marshals throughout the country.

8. Byron B. Harlan (Ohio).

MR. BLANTON: Mr. Chairman, that language in the statute read by the gentleman from South Carolina [Mr. McMILLAN] in no way embraces authority for "special instruction and training of United States attorneys and United States marshals, their assistants and deputies, and United States commissioners" and their trips to Washington. There is nothing in that language read by my colleague that embraces or authorizes anything like that. This is nothing in the world but providing for junket trips, pure and simple, and such junket trips to Washington have been turned down by the Comptroller General in the past. I have some of the accounts in my office, certified to by his office, showing where he has turned them down because there is no authority of law. This \$35,000 provision is an attempt to get around the Comptroller General of the United States.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, will the gentleman yield?

THE CHAIRMAN: The Chair is ready to rule. Does the gentleman from Massachusetts wish to address the Chair on the point of order?

MR. MCCORMACK: Not necessarily on the point of order, but I should like to ask the gentleman from Texas to yield, if he will.

MR. BLANTON: Certainly I yield to my friend from Massachusetts.

MR. MCCORMACK: I just wish to make this observation: I do not think the gentleman means to let it remain in the Record that these are junket trips. I think what the Attorney General has in mind is something which is a very desirable objective, namely, to

create uniformity throughout the country in the offices of the United States district attorneys. I know something about the objective of the Attorney General in this respect. It seems to me that, independent of the point of order, it should not be permitted to go into the Record, without an expression of view to the contrary, that this is nothing but a junket trip.

MR. BLANTON: I will say to the gentleman that he has not given the attention to this matter that I have. I have gotten some of these accounts in the past from the Comptroller General's office, because it was my duty to look into those things as a member of this committee. I have found out where they have attempted to put these junket trips over and they have been approved by the Department of Justice, but when they reached Comptroller General McCarl he turned them down, and they were not paid out of Government funds.

THE CHAIRMAN: The Chair is ready to rule on the point of order.

The question to be decided is the interpretation of the phrase, "special instruction and training", contained in this appropriation bill, the question being whether that phrase comes under the statutory authorization to the Attorney General in the section referred to by the gentleman from South Carolina [Mr. McMILLAN], section 317 of title 5, in which the Attorney General is authorized to exercise "general superintendence and direction" over the attorneys.

This section has been on the statute books certainly for more than half a century. So far as the records disclose, up to the present time there has been

no attempt to organize or operate a school for instructing district attorneys under that authorization. There is very little in the decisions interpreting this phrase of the statute. In the case of *Fish v. U.S.* (36 Federal Reporter, 680), however, in a decision by the District Court for the Eastern District of New York, the court, by way of obiter, spoke as follows:

The section no doubt confers upon the Attorney General power to superintend any criminal prosecution instituted by the district attorney, and to direct the district attorney in regard to the method of discharging his duties in any particular prosecution instituted by him. But it does not, in my opinion, authorize the attorney general to control the action of the district attorney in criminal cases by general regulations. The supervision and direction contemplated by section 362 must, as I think, be a particular instruction, given in a particular case, and based on the facts of the particular case. To hold otherwise would in many instances deprive the court of the aid of counsel, learned in the law, which is contemplated by the statute, and substitute in place of counsel a set of general regulations issued by the Attorney General; and in some cases the ends of justice would be defeated by such a practice. A general regulation of the Department of Justice that all district attorneys should in all cases refuse to consent to any postponement of a trial, should never admit a fact, should always move for the infliction of the extreme penalty of the law, would hardly be upheld. The statute must have some limit; and one proper limitation, as it seems to me, is to require, for the validity of any direction by the Attorney General in criminal cases, that it be made in a particular case, and with reference to the duties of the district attorney in that particular case.

If this decision is to be followed, there is no authority under present statutes for the Attorney General to operate a school for district attorneys.

The point of order is sustained.

Civil Rights Commission

§ 18.2 A paragraph in a general appropriation bill containing funds for the Civil Rights Commission for fiscal 1979 was conceded to be unauthorized in violation of Rule XXI clause 2 where the law extending the existence and authorizations for the Commission beyond fiscal 1978 had not yet been enacted (42 USC Sec. 1975c, 1975e).

On June 14, 1978,⁽⁹⁾ during consideration in the Committee of the Whole of the Departments of State, Justice, Commerce, and Judiciary appropriation bill (H.R. 12934), a point of order was sustained against the following provision:

The Clerk read as follows:

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, \$10,752,000.

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Chairman, on the basis of

9. 124 CONG. REC. 17629, 95th Cong. 2d Sess.

clause 2, rule XXI, I make a point of order that this is an unauthorized appropriation and has not been authorized by law.

MR. [JOHN M.] SLACK [of West Virginia]: I concede the point of order, Mr. Chairman.

THE CHAIRMAN:⁽¹⁰⁾ the point of order is conceded, sustained, and the paragraph is stricken.

Parliamentarian's Note: The authorization extension had not passed either House as of June 14 (see Public Law No. 95-444).

Department of Justice—Annual Authorizations Required

§ 18.3 Appropriations in a general appropriation bill for fiscal 1979 for the Department of Justice and its related agencies were conceded to be unauthorized (where the authorization bill had been reported in the House but not enacted into law) and were ruled out in violation of Rule XXI clause 2.

Pursuant to law (Public Law No. 94-503, §204), all appropriations for the Department of Justice and related agencies and bureaus are deemed unauthorized for fiscal 1979 and subsequent fiscal years unless specifically au-

10. George E. Brown, Jr. (Calif.).

thorized for each fiscal year, and the creation of any subdivision in that department or the authorization of any activity therein, absent language specifically authorizing appropriations for a fiscal year, is not deemed sufficient authorization. Accordingly, on June 14, 1978,⁽¹¹⁾ during consideration of H.R. 12934 (Departments of State, Justice, Commerce, and the Judiciary appropriations for fiscal 1979), points of order were made and conceded, as follows:

The Clerk read as follows:

For expenses necessary for the administration of the Department of Justice, including hire of passenger motor vehicles; and miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration; \$28,500,000, of which \$4,837,000 is for the United States Parole Commission and \$2,000,000 is for the Federal justice research program, the latter amount to remain available until expended.

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Chairman, on the basis of clause 2, rule XXI, I make the point of order that this is an unauthorized appropriation and has not been authorized by law.

MR. [JOHN M.] SLACK [of West Virginia]: Mr. Chairman, I concede the point of order.

THE CHAIRMAN:⁽¹²⁾ the point of order is conceded and sustained. The paragraph is stricken.

11. 124 CONG. REC. 17622-24, 95th Cong. 2d Sess.

12. George E. Brown, Jr. (Calif.).

The Clerk will read.
The Clerk read as follows:

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL
LEGAL ACTIVITIES (INCLUDING
TRANSFER OF FUNDS)

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration. . . .

MR. ROUSSELOT: Mr. Chairman, on the basis of clause 2, rule XXI, I make the point of order that this is an unauthorized appropriation and has not been authorized by law.

MR. SLACK: I concede the point of order, Mr. Chairman.

THE CHAIRMAN: The point of order is conceded and sustained The paragraph is stricken. . . .

The Clerk read as follows:

SALARIES AND EXPENSES, ANTITRUST
DIVISION

For expenses necessary for the enforcement of antitrust, consumer protection and kindred laws. . . .

MR. ROUSSELOT: Mr. Chairman, on the basis of clause 2, rule XXI, I make the point of order that this is an unauthorized appropriation and has not been authorized by law.

MR. SLACK: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The point of order is conceded and sustained. The paragraph is stricken. . . .

The Clerk read as follows:

For necessary expenses of the Community Relations Service. . . .

MR. ROUSSELOT: Mr. Chairman, I make a point of order on the basis of clause 2, rule XXI, that this is an unauthorized appropriation and has not been authorized by law.

MR. SLACK: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The point of order is conceded and sustained. The paragraph is stricken.

§ 19. Public Works

Public Buildings Not Approved by Public Works Committee

§ 19.1 Language in a general appropriation bill providing an additional amount for the construction of public buildings not yet authorized pursuant to law was held not to be in order.

On June 7, 1961,⁽¹³⁾ during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 7445), a point of order was raised, as follows:

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽¹⁴⁾ the gentleman will state it.

MR. GROSS: Mr. Chairman, I make a point of order against the language on page 19 beginning with line 9 and run-

13. 107 CONG. REC. 9678, 87th Cong. 1st Sess.

14. Richard Bolling (Mo.).